

SENATE BILL REPORT

SSB 5127

As Passed Senate, February 23, 2021

Title: An act relating to courthouse facility dogs.

Brief Description: Concerning courthouse facility dogs.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Dhingra, Padden, Kuderer, Nguyen, Short, Wagoner, Warnick and Wilson, C.).

Brief History:

Committee Activity: Law & Justice: 2/04/21, 2/11/21 [DPS].

Floor Activity: Passed Senate: 2/23/21, 48-0.

Brief Summary of First Substitute Bill

- Provides authority for a courthouse facility dog to access locations outside the courthouse for meetings with potential witnesses or other activities associated with the courthouse facility dog program's operations.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5127 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Tim Ford (786-7423)

Background: Courts are authorized to permit a trained, certified, and insured courthouse facility dog to accompany a witness during testimony. Courts must allow a witness who is under age 18 or who has a developmental disability to have assistance from a courthouse

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facility dog when one is available. Courts have discretion to permit a witness who is 18 years old or older, and does not have a developmental disability, to use a courthouse facility dog when available. The court must determine by motion whether to allow a witness to have an assistance dog in the courtroom. The motion must demonstrate:

- the courthouse facility dog's credentials and insurance;
- the witness and dog have developed a relationship in anticipation of testimony; and
- the assistance of the courthouse facility dog is necessary to assist the witness during testimony.

In the courtroom, the handler must be present with the dog, the dog must accompany the witness to the stand without a leash, and the dog must lie quietly on the floor out of the jury's view. If the courthouse facility dog accompanies a witness in a jury trial, the court must employ specific protections to prevent prejudice to any party caused by use of the dog's assistance during testimony. The protections include:

- allowing jury voir dire questions regarding potential prejudice because of the dog's presence;
- ensuring the dog is not in view of the jury before, during, or after testimony; and
- upon a party's request, a jury instruction to address potential prejudice or bias because of the presence of the dog in the courtroom.

Courts may adopt rules governing the use of courthouse facility dogs to assist witnesses during testimony.

Summary of First Substitute Bill: Courts are authorized to exercise discretion permitting a courthouse facility dog to be used in any judicial proceeding.

A courthouse facility dog accompanied by a certified handler is authorized to access:

- any courthouse;
- any location where the courthouse facility dog and certified handler provide services, participate in administrative activities of the courthouse facility dog program, engage in community outreach, or participate in training activities;
- any location related to a law enforcement investigation where law enforcement requests their presence; and
- matters pending in the civil or criminal justice system.

Authorized locations include, but are not limited to, places of public accommodation, all modes of public transportation, children's advocacy centers, schools, day care facilities, law enforcement agencies, prosecutors' offices, attorneys' offices, medical facilities, specialty courts, and court appointed special advocates and guardian ad litem program offices. The certified handler may be asked to show identification, provided by the qualified assistance dog organization that trained the courthouse facility dog and courthouse handler, to establish that their public access is authorized.

The party desiring to use the assistance of a courthouse facility dog must file a motion

setting out in part reasons why the courthouse facility dog would help reduce the witness's anxiety and elicit the witness's testimony. The witness should be afforded the opportunity to have a courthouse facility dog accompany them while testifying, if a courthouse facility dog and certified handler are available within the jurisdiction of the court in which the proceeding is held. When the court finds the circumstances warrant the presence of a courthouse facility dog, the court must state the basis for its decision on the record.

A certified handler is a trained professional working in the legal system who is knowledgeable about its practices including, but not limited to, victim advocates, forensic interviewers, detectives, prosecuting attorneys, and guardians ad litem.

In addition to established requirements, a courthouse facility dog must demonstrate continued proficiency in providing safe and reliable services through ongoing training according to the assistance dog organization's training standards, and travels as needed with a certified handler as a team to and from authorized locations for training, community outreach, and other purposes associated with the operations of a courthouse facility dog program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: The comfort dogs need permission to access public areas and public facilities so they can go to where the survivors are located. This innovative program began in 2004 in the King County courthouse. There are over 250 courthouse dogs working across the United States and it has now spread worldwide. If these dogs go into the public they need official permission to be in those facilities. Without permission the dogs and survivors would need to meet at a location like a hotel where you would have to pay a fee for access.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Ellen O'Neill-Stephens, Courthouse Dogs Foundation.

Persons Signed In To Testify But Not Testifying: No one.